

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

MICHAEL FORESTIER-FIGUEROA,

Petitioner

v.

UNITED STATES OF AMERICA

Respondent

Civil Case No. 14-1023 (PG)

ORDER

Defendant Michael Forestier Figueroa (the "Petitioner" or "Forestier-Figueroa") filed a pro se Motion to Vacate, Set Aside or Correct Sentence under 28 U.S.C. § 2255. See Docket No. 1. He claimed that he suffered ineffective assistance of counsel, in violation of the Sixth Amendment to the United States' Constitution. Id. Petitioner also averred that he entered into a guilty plea "unknowingly, unintelligently and involuntarily." Id. Finally, Forestier-Figueroa stated that the government breached its duty to ensure a fair trial. Id.

The Government filed its response on January 30, 2014. See Docket No. 3. As per this court's request, on March 30, 2015, Magistrate-Judge Justo Arenas entered a Report and Recommendation ("Report" or "R&R") recommending that the Motion to Vacate be denied without evidentiary hearing and warning the parties that they had fourteen (14) days to file any objections to the R&R. See Docket No. 16.

Pursuant to 28 U.S.C. §§ 636(b)(1)(B), FED.R.CIV.P. 72(b), and Local Rule 72(d), a District Court may refer dispositive motions to a Magistrate Judge for a Report and Recommendation. See Alamo Rodriguez v. Pfizer Pharmaceuticals, Inc., 286 F.Supp.2d 144, 146 (D.P.R. 2003). The adversely affected party may "object the magistrate judge's report of proposed findings and recommendations pursuant to 28 U.S.C. § 636(b)(1) within fourteen (14) days after being served a copy of it." Local Rule 72(d).

If objections are timely filed, the District Judge shall "make a *de novo* determination of those portions of the report or specified findings or recommendations to which [an] objection is made." Felix Rivera de Leon v. Maxon Engineering Services, Inc., 283 F.Supp.2d 550, 555 (D.P.R.

2003). The Court can "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate," however, if the affected party fails to timely file objections, "the district court can assume that they have agreed to the magistrate's recommendation." Alamo Rodriguez, 286 F.Supp.2d at 146 (citation omitted).

Petitioner did not file objections to the Report, and the time allotted for doing so has already expired. Taking that fact into consideration and having thoroughly reviewed the R&R, we find no fault with Magistrate Judge Arenas' assessment. Even under the more lenient review afforded to the allegations of pro se litigants, *see e.g. Erickson v. Pardus*, 551 U.S. 89, 94 (2007), petitioner's claims do not pass muster. The Court thus **APPROVES** and **ADOPTS** the Magistrate's Report and Recommendation as its own. Consequently, petitioner's motion is **DENIED** and the above-captioned action will be **DISMISSED WITH PREJUDICE**. Judgment shall be entered accordingly.

IT IS SO ORDERED.

In San Juan, Puerto Rico, May 6, 2015.

S/ JUAN M. PÉREZ-GIMÉNEZ
JUAN M. PÉREZ-GIMÉNEZ
SENIOR U.S. DISTRICT JUDGE